
UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

LEONA FLETCHER,

Plaintiff,

versus

POLICE OFFICER, *Badge #131*,

Defendant.

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NO. 1:22-CV-00563-MAC-ZJH

**ORDER PARTIALLY ADOPTING MAGISTRATE JUDGE’S REPORT AND
RECOMMENDATION**

On November 13, 2020, the court referred this case to the Honorable Zack Hawthorn, United States Magistrate Judge, for all pretrial matters pursuant to a standing order. On November 28, 2022, Plaintiff Leona Fletcher, proceeding *pro se*, filed her Complaint (#1) and Motion for Leave to Proceed *in forma pauperis*. (#2).


On August 8, 2023, Judge Hawthorn issued a Report and Recommendation (#7), granting Fletcher’s Motion for Leave to Proceed *in forma pauperis*, and *sua sponte* recommending dismissal of this case with prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B). On August 11, 2023, Fletcher filed her instant Voluntary Motion to Dismiss. (#8).

Under Federal Rule of Civil Procedure 41(a)(1)(A)(i), a plaintiff has an absolute right to voluntarily dismiss her case “before the opposing party serves either an answer or a motion for summary judgment.” FED. R. CIV. P. 41(a)(1)(A)(i). As Fletcher has not yet served the Defendant in this case with summons, and there is no answer or motion for summary judgment

pending, the court will adopt Judge Hawthorn's report to the extent that it recommends dismissal. The dismissal will be without prejudice.

It is therefore ORDERED that the report and recommendation of the magistrate judge (#7) is ADOPTED to the extent that it recommends dismissal. Plaintiff Leona Fletcher's instant lawsuit is DISMISSED WITHOUT PREJUDICE. The court will issue a Final Judgment separately.

SIGNED at Beaumont, Texas, this 14th day of August, 2023.

A handwritten signature in black ink, reading "Marcia A. Crone". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE